

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-615

September 15, 1998

YORK WATER DISTRICT
Request for Certification
for Certain Telecommunications
Licensing and Leasing Transactions

ORDER

WELCH, Chairman; NUGENT, Commissioner

I. SUMMARY

In this Order we exempt certain transactions planned by the York Water District (York or District) from the approval requirements of 35-A M.R.S.A. § 1101.

II. DECISION

On August 6, 1998, the York Water District asked the Commission to exempt certain transactions from Commission approval pursuant to 35-A M.R.S.A. § 1101(4). Section 1101 requires a public utility to obtain Commission authorization before it leases or encumbers the whole or part of property that is necessary and useful in performing its duties. Subsection 4 exempts transactions that do not materially affect the ability of a utility to perform its duties. It further allows the Commission to certify transactions as not requiring authorization, either by rule or order.

York plans to lease certain of its property, maintained to protect its watershed, and its water tanks for use as sites for communications facilities and towers. The District asks that the proposed licensing and leasing transactions associated with these projects be designated as "exempt transactions." The District expects to enter into approximately 20 agreements.

As requested by York, we will exempt from approval under 35-A M.R.S.A. § 1101, transactions entered into by York Water District or its authorized representative for the location or operation of communications equipment and facilities at property owned by the District. This exemption is granted based on the District's representation that such transactions will not materially affect the District's ability to provide safe, reasonable and adequate water service. It is also based on the assumption that the property being used in these transactions is

necessary and useful to the District in providing safe, reasonable and adequate water services. Such leasing arrangements are reasonable as they maximize the value the District can obtain from property it must maintain to provide water service. This will benefit the Districts' ratepayers. As part of granting the exemption, we require the District to include as part of its annual report to the Commission an addendum listing all licensing and leasing transactions entered into during the calendar year and an itemized list of its expenses and income associated with such transactions during the calendar year.

Accordingly, we

O R D E R

1. That transactions entered into by the York Water District or its authorized representatives granting a license or lease for a definite term of years that allow the licensee or tenant the right to locate and operate communications equipment and facilities at any site owned by the District, are exempt from the approval requirements of 35-A M.R.S.A. § 1101, as further described in the body of this Order.

2. That the York Water District shall include as part of its Annual Report to the Commission a description of any such transactions entered into during that calendar year and an itemized list of all income and expenses associated with such transactions during that calendar year.

Dated at Augusta, Maine this 15th day of September, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: WELCH
NUGENT

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.